

CITY COUNCIL REPORT



MEETING DATE: November 1, 2005

ITEM NO. 4

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

GLO Abandonment 129th Street - 4-AB-2005

REQUEST

Request to consider the following:

1. Abandon the 33-foot wide GLO Easement along the eastern property boundary.
2. Abandon thirteen (13) feet of the 33-foot GLO easement along the western property boundary, full property frontage.
3. Dedicate a twenty (20) foot wide right-of-way along the western property boundary.
4. To adopt Resolution No. 6744 vacating and abandoning a public right-of-way.

Related Policies, References:

General Plan: Community Mobility Element, Trails Master Plan

9-500.24. Federal patent easements; city and town abandonment

A city or town, by its own motion or at the request of a property owner, may abandon a federal patent easement established by the Small Tract Act of 1938 that the city or town determines, after notifying and obtaining the consent of all affected utilities, is not being used by the public or is no longer necessary in the same manner as other easements are abandoned.

OWNER

R & R Investments
602-228-2396

APPLICANT CONTACT

Victor Black
Black Design Inc
480-947-8517

LOCATION

9875 N 129th St.

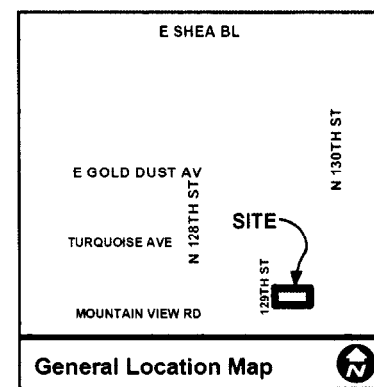
BACKGROUND

Background.

The subject 33 foot GLO patent roadway and public utility easements were dedicated on the original GLO patent deed in 1954. The GLO easement is located along the eastern property boundary and the western property boundary within the 129th Street alignment.

General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 feet (or sometimes 50 feet) roadway



and public utility easements typically “as near as practicable to the exterior boundaries.”

- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e., lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per our circulation plans. The city’s transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards and not required to insure access to any other lot, may be requested to be abandoned.
- In 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all right-of-ways, alleys and roadway easements. The City Attorney’s office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city’s position on abandonment of GLO patent easements.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the two 165 feet GLO easements are unimproved.

Zoning.

The site is zoned Single Family Residential District, Environmental Sensitive Lands Ordinance (R1-43 ESL)

Context.

The lot is not within a subdivision and is described by metes and bounds and fronting along 129th Street. The surrounding property is also zoned R1-43 ESL.

**APPLICANT’S
PROPOSAL**

Goal/Purpose of Request.

This request is to abandon the entire 33 feet of a GLO roadway and public utility easement along the eastern property boundary and a three-foot wide portion of the easement along the western property frontage (129th Street). The existing GLO Easements serve no purpose for access and there are no public utilities within the easements.

Key Issues.

CITY IMPACT:

- Dedicates a twenty-foot wide right-of-way, 129th Street.
- Reserves a twenty-foot wide GLO roadway and public utility easement along the western property frontage.
- Maintains consistency with city street standards as required by the Design Policies and Procedures Manual.

NEIGHBORHOOD IMPACT:

The abandonment of the GLO easement and public utility easement along the western property boundary and a portion of the eastern property boundary has no significant impact on the neighborhood.

PROPERTY OWNER IMPACT:

Enables the property owner to develop a single family residence and dedicate Natural Area Open Space which cannot be dedicated over existing GLO Easements.

Community Impact.

The surrounding properties all have existing access. There is no significant impact on the existing properties.

IMPACT ANALYSIS

Departmental Responses.

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

Community Involvement.

Surrounding property owners within 750-feet have been notified. There have been no general inquiries, or comments at the time of writing this report.

Staff Recommendation.

Staff recommends approval.

OTHER BOARDS AND COMMISSIONS

Planning Commission.

The case was heard at the Planning Commission Meeting on September 14, 2005. No citizen comment cards were received and no questions or discussion occurred on this case. Planning Commission recommended approval on the consent agenda, 7-0.

RECOMMENDATION

Approval

RESPONSIBLE DEPT(S)

Planning and Development Services Department

STAFF CONTACT(S)

Greg Williams
Senior Planner
480-312-4205

E-mail: gwilliams@ScottsdaleAZ.gov

Randy Grant
Chief Planning Officer
480-312-7995

E-mail: rgrant@ScottsdaleAZ.gov

Peter Deeley
Planning Coordination Manager
480-312-2554
E-mail: pdeeley@ScottsdaleAZ.gov

APPROVED BY


Randy Grant
Chief Planning Officer

Date

For Randy Grant 10.4.05


Frank Gray
General Manager Planning & Development Services

Date

10.4.05


Ed Gawf
Deputy City Manager

Date

10/5/05

ATTACHMENTS

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Easements & Right-of-Ways
5. Area Trails Plan
6. City Notification Map
7. September 14, 2005 Planning Commission Minutes
8. Resolution No. 6744

CASE 4-AB-2005

Department Issues Checklist

Transportation

☒ **Support**

Access for this parcel will be from 129th Street to the west of the property. Twenty (20) feet of right of way will be dedicated to the City for 129th Street.

Trails

☒ **Support**

The public trails system for this area is located on the north side of Mountain View Road, at about 150 feet south of the site's southern property boundary. There is no trail requirement for this property.

Public Utilities

☒ **Support**

All utility companies have been notified and responded with no reservations.

Emergency/Municipal Services

☒ **Support**

This request does not impact the ability to serve this property

Water/Sewer Services

☒ **Support**

This request does not impact the ability to serve any of the surrounding area.

Drainage

☒ **Support**

There is a minor wash along the property's eastern border. This wash will be included within the NAOS at the time that the GLO Easement is abandoned.



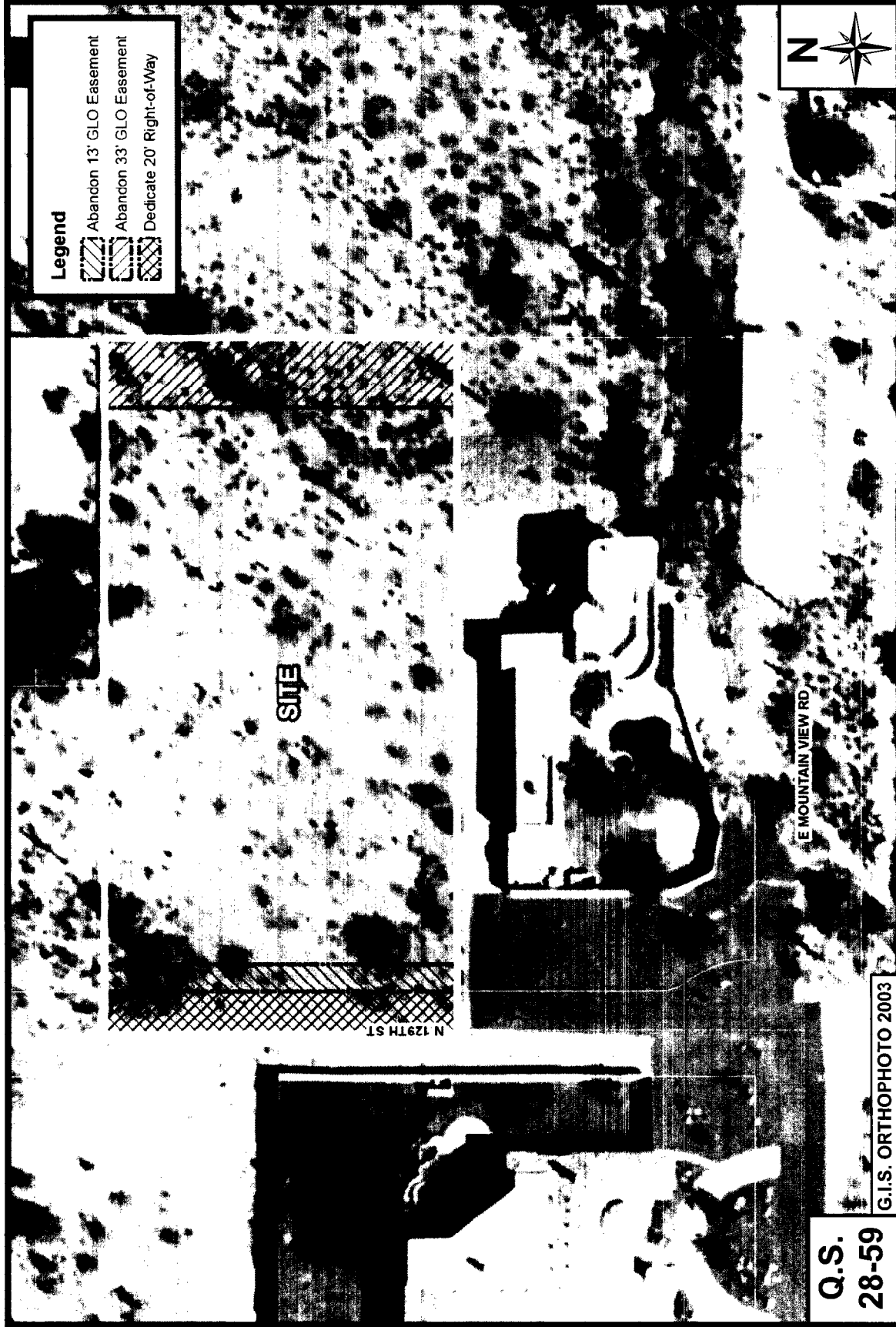
Q.S.
28-59

G.I.S. ORTHOPHOTO 2003

GLO Abandonment 129th Street

4-AB-2005

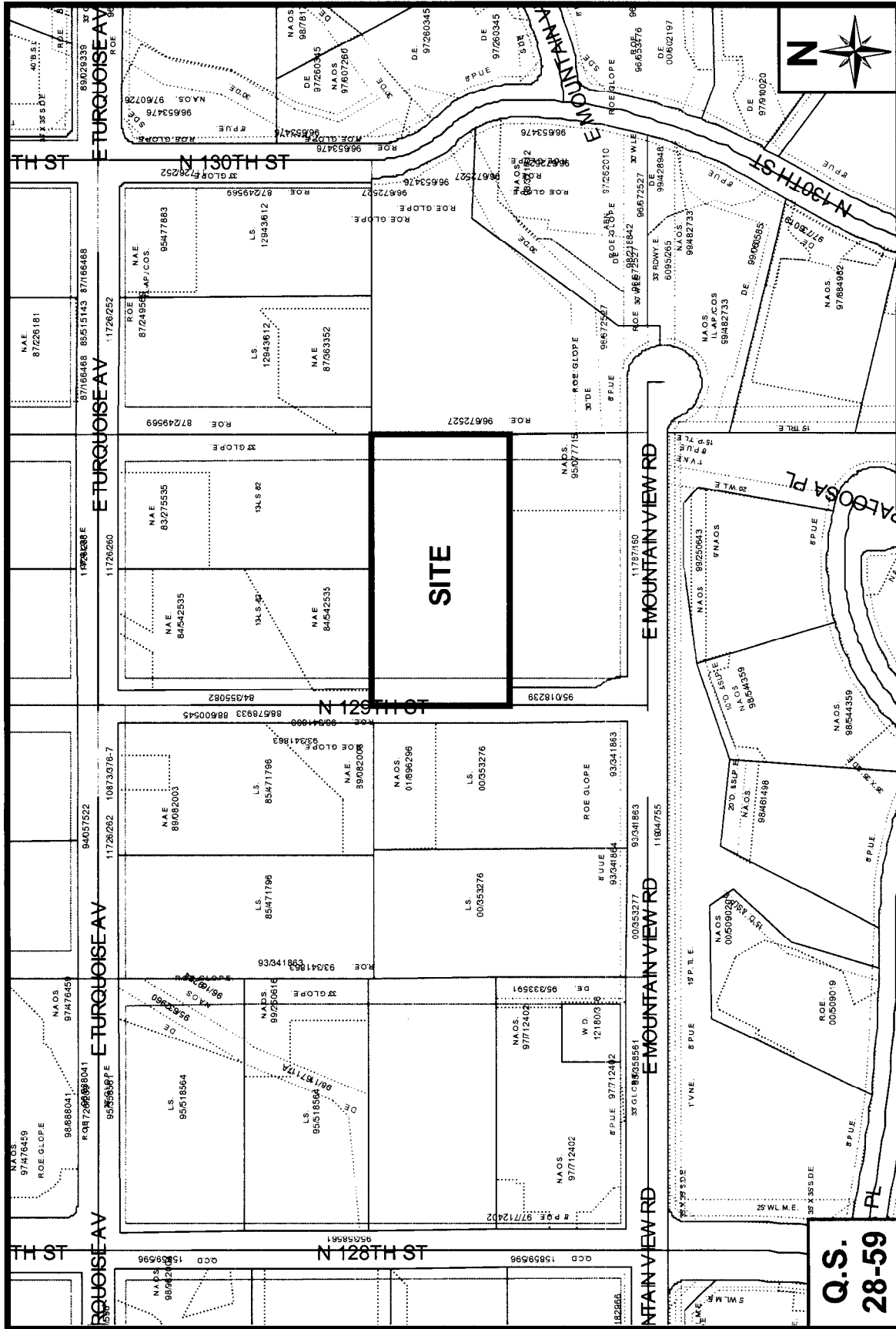
ATTACHMENT #2



GLO Abandonment 129th Street

4-AB-2005

ATTACHMENT #3

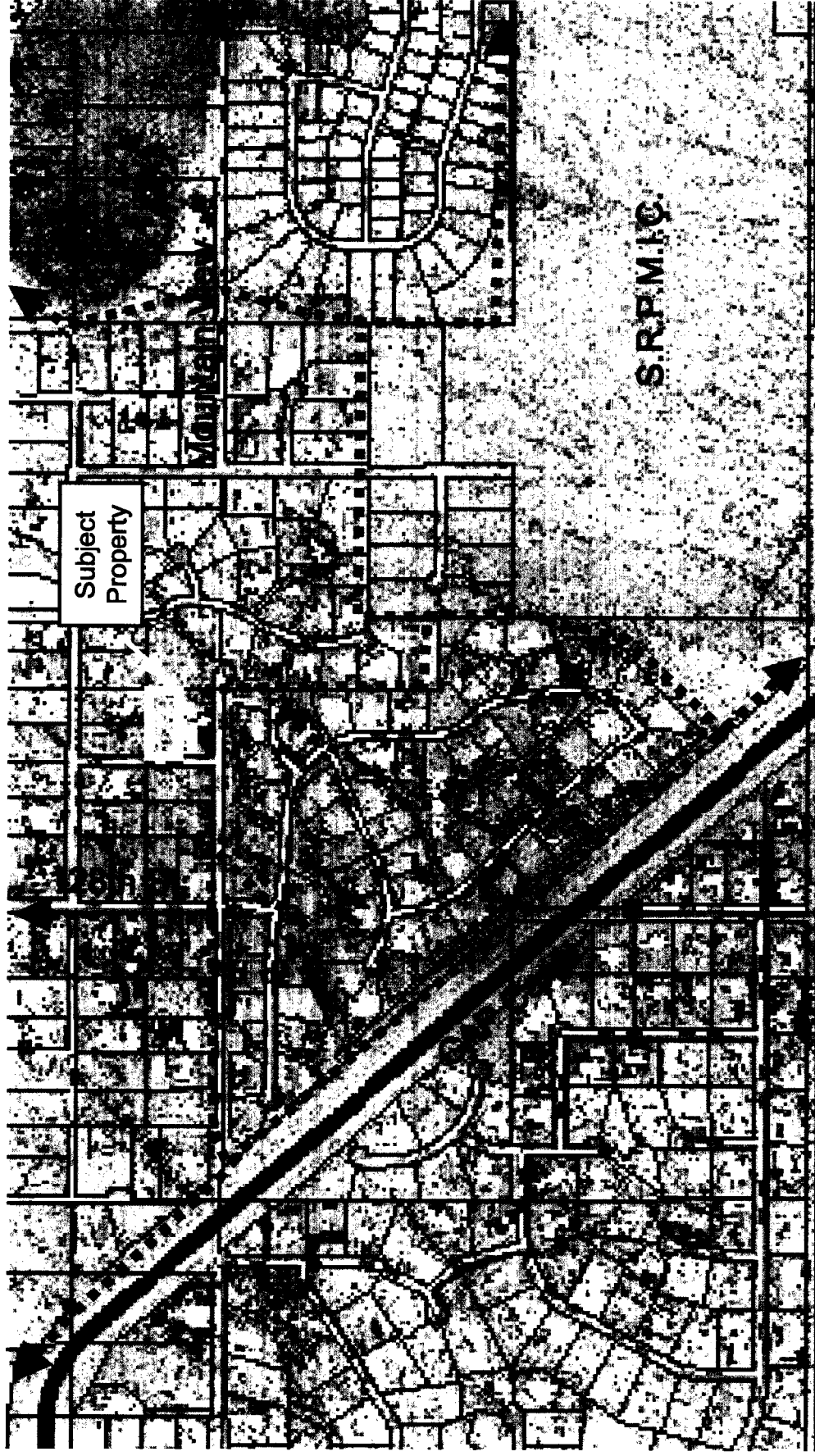


4-AB-2005

GLO Abandonment 129th Street

Easements & Right-of-Way
ATTACHMENT #4

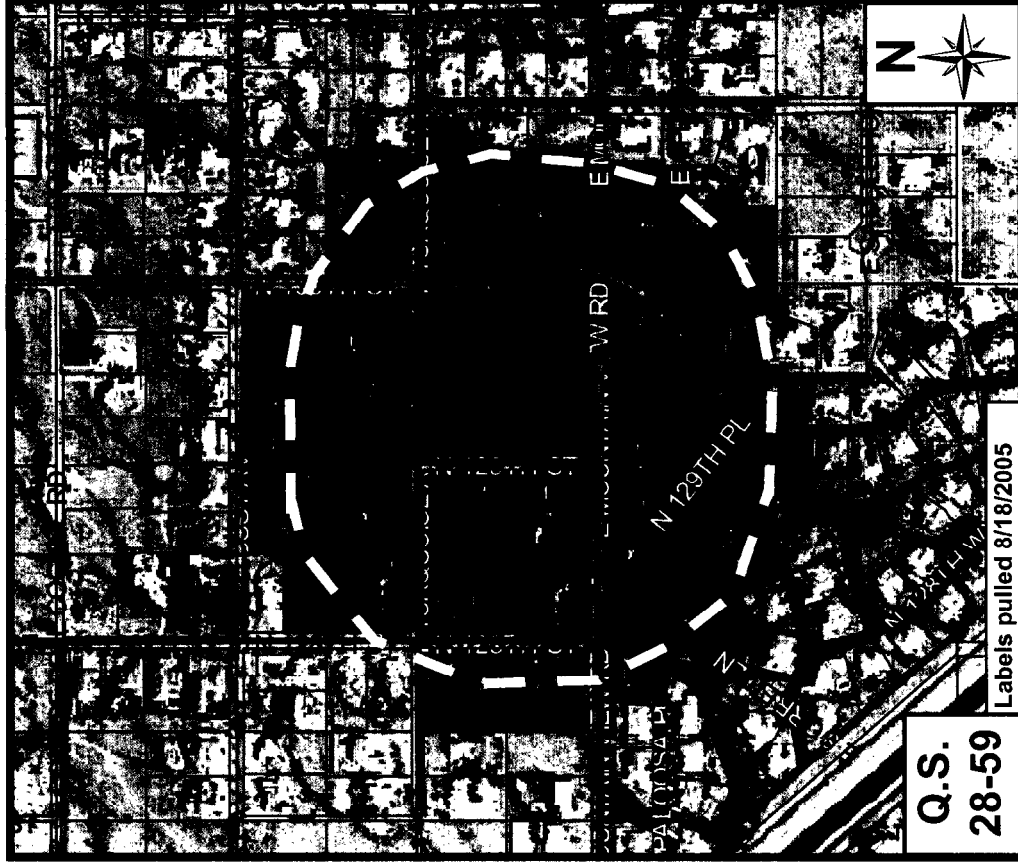
Trails in the Area of 4-AB-2004



..... Master Planned Trails	Not to Scale
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June 2005

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary

Properties within 750-feet

Additional Notifications:

- Interested Parties List
- Adjacent HOAs

GLO Abandonment 129th Street

4-AB-2005

ATTACHMENT #6

3. 28-UP-2004 (Next Bar & Nightclub)

COMMISSIONER SCHWARTZ MOVED TO CONTINUE CASE NUMBERS 9-UP-2005 (Drinx) AND 28-UP-2004 (Next Bar & Nightclub) TO THE SEPTEMBER 28, 2005 HEARING. SECONDED BY COMMISSIONER STEINKE.

Upon invitation by Chairman Gulino, no members of the public elected to speak on either of the cases.

THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

Chairman Gulino announced that he has a conflict on case numbers 2-AB-2005 (The Reserve & Gold Club Scottsdale) and 11-ZN-2005 (DHL Campus Phase III) and will not be participating in the discussion or vote pertaining to either of those cases.

Chairman Gulino noted the concurrence of the Commission to move the items from the regular agenda to the expedited agenda. Upon invitation by Chairman Gulino, no members of the public elected to speak regarding any of the cases on either the expedited or regular agenda.

Chairman Gulino deferred the proceedings to Vice-Chairman Steinberg and departed the meeting.

4. 2-AB-2005 (The Reserve & Gold Club Scottsdale)

10. 11-ZN-2005 (DHL Campus Phase III)

COMMISSIONER SCHWARTZ MOVED TO APPROVE CASES 2-AB-2005 (The Reserve & Gold Club Scottsdale) AND 11-ZN-2005 (DHL Campus Phase III). SECONDED BY COMMISSIONER BARNETT. THE MOTION CARRIED WITH A VOTE OF SIX (6) TO ZERO (0), WITH CHAIRMAN GULINO RECUSING.

Chairman Gulino re-joined the meeting.

COMMISSIONER BARNETT MOVED TO APPROVE:

5. 4-AB-2005 (GLO Abandonment 129th Street)

6. 8-AB-2005 (Troon Canyon Estates 2)

7. 12-AB-2005 (The Courtyards At Desert Park)

8. 14-AB-2005 (The Estates at Miramonte)

9. 29-ZN-2000#3 (Whisper Rock)

REGULAR AGENDA

11. 1-GP-2005 (Artesia)
12. 2-ZN-2005 (Artesia)

**THE MOTION WAS SECONDED BY COMMISSIONER HESS AND
CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).**

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission adjourned at 5:07 P.M.

Respectfully submitted,
A-V Tronics, Inc.

RESOLUTION NO. 6744

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ABANDONING A PORTION OF THE PUBLIC RIGHT-OF-WAY FOR 129TH STREET, AND FOR A RIGHT-OF-WAY BETWEEN 129TH STREET AND 130TH STREET, BOTH BETWEEN TURQUOISE AVENUE AND MOUNTAIN VIEW ROAD

(4-AB-2005)

A. A.R.S. §9-500.24 and A.R.S. Sec. 28-7201, et seq. provide that a city may dispose of a roadway or portion thereof when said property or portion thereof is no longer necessary for public use.

B. After notice to the public, hearings have been held before the Planning Commission and Council of the City of Scottsdale ("City") on the proposed abandonment of the street right-of-way as described on Exhibit "A" attached hereto (the "Abandonment Right-of-way").

C. The City Council finds that the Abandonment Right-of-way is no longer necessary for public use.

D. The City Council finds that consideration and other public benefit commensurate with the value of the property, giving due consideration to its degree of fragmentation and marketability, will be provided to the City by the owner of the abutting property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

1. Abandonment. Subject to the reservations below, the Abandonment Right-of-way is abandoned as public street right-of-way.

2. Reservations. All of the following interests are reserved to City and excluded from this abandonment:

2.1 Any N.V.A.E. or other non-vehicular access easement or covenant in favor of the City that may already affect the Abandonment Right-of-way prior to this resolution.

2.2 Any N.A.O.S. or other open space easement or covenant in favor of the City that may already affect the Abandonment Right-of-way prior to this resolution.

2.3 An easement for all existing utilities.

2.4 Such rights and interests, if any, as are required to be reserved by A.R.S. Sec. 28-7210 and A.R.S. Sec. 28-7215.

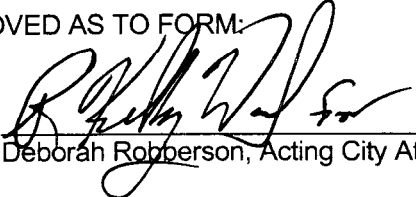
PASSED AND ADOPTED by the Council of the City of Scottsdale this ____ day of _____, 2005.

Mary Manross, Mayor

ATTEST:

By: _____
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

By: _____
Deborah Roberson, Acting City Attorney

LEGAL DESCRIPTION
EASEMENT ABANDONMENT IN PARCEL 217-31-041C

A part of that certain easement dedicated for roadway and public utilities as described in G.L.O. Patent No. 1144415 situated in Lot 39 of Section 25, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, City of Scottsdale, Maricopa County, Arizona, more particularly described as follows:

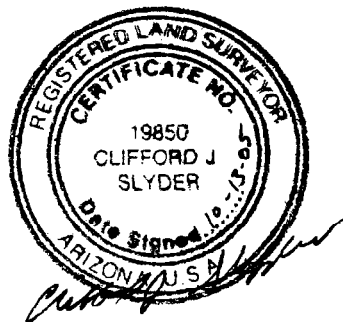
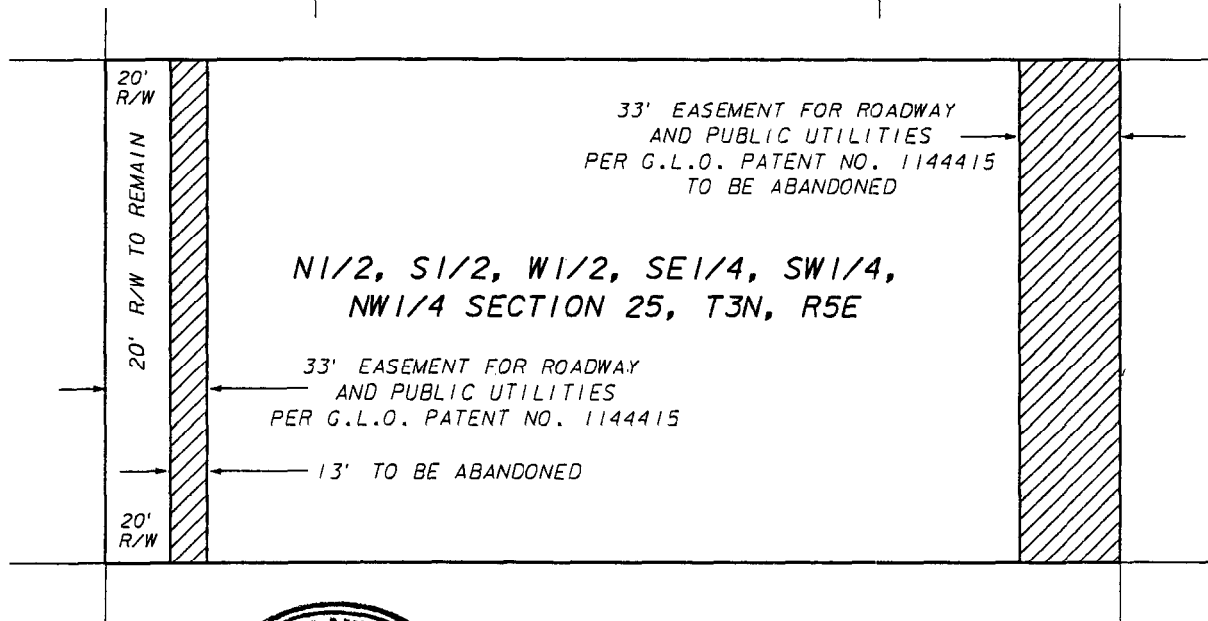
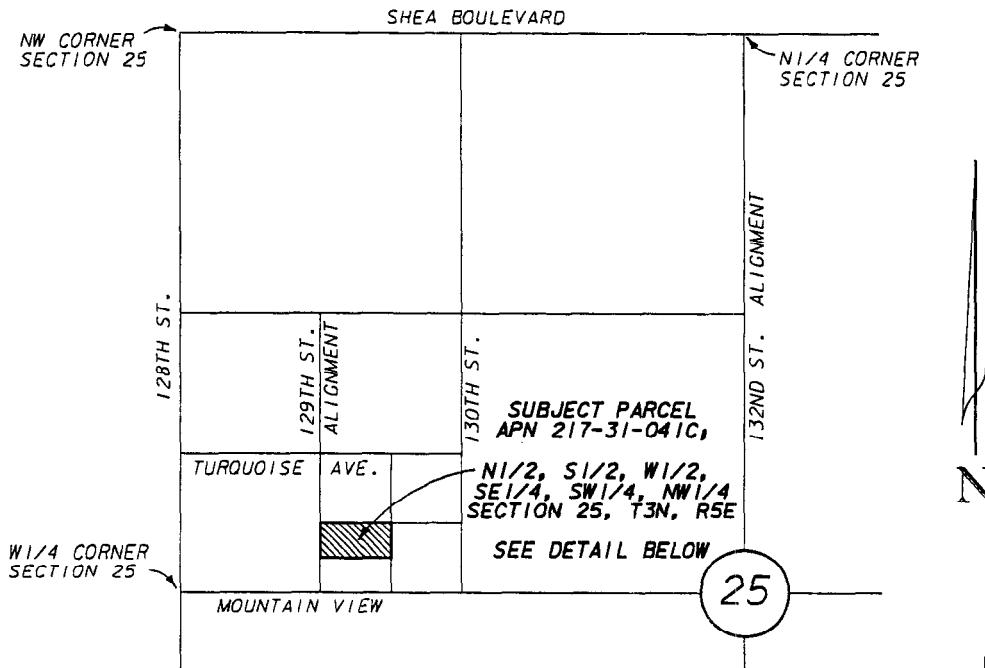
The East 33 feet AND the East 13 feet of the West 33 feet of the North half of the South half of the West half of the Southeast quarter of the Southwest quarter of the Northwest quarter of said Section 25.



EXHIBIT "A" PAGE 1 OF 2

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION RIGHT-OF-WAY ABANDONMENT

WITHIN THE N1/2, S1/2, W1/2, SE1/4, SW1/4, NW1/4
SECTION 25, T.3 N., R.5 E. OF THE G. & S.R. B. & M.,
CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA



<i>Consolidated Surveying Services</i>		<i>5147 N. 18th Pl. Phoenix, Az 85016 (602) 277-2772</i>	
JOB NO.: C05032	DATE: 4/06/05		
DRAWN BY: C.SLYDER	REV.#1 DATE: 10/13/05		
CREW: SLYDER	SCALE: N.T.S.		
FILE: /PROJECTS/C05032/ABANDON.DGN		SHEET 1 OF 1	

EXHIBIT "A" PAGE 2 of 2